

IRS Collection Representation: The Basics

American Bar Association Section of Taxation

June 28, 2005



Private Collectors

- American Jobs Creation Act
- 25% of recovery to collection agency
- Fair Debt Collection Practices Act applies

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Installment Agreements

- American Jobs Creation Act
- IRS may grant installment agreements that will not fully amortize the outstanding taxes within the statute of limitations.
- More attractive than offer in compromise??

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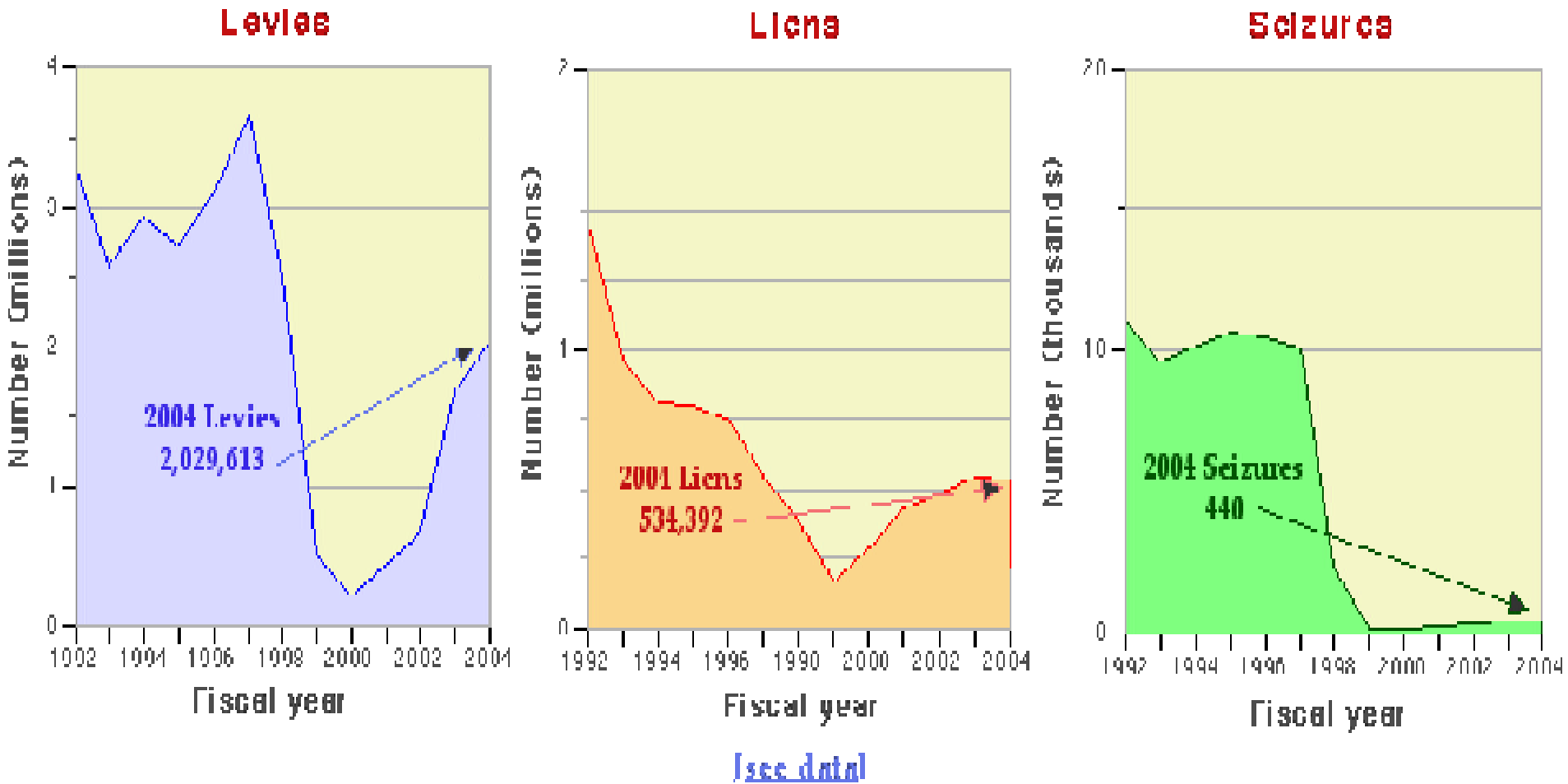


More Dollars Not Collected

- Growing amount of potentially collectible tax debt, roughly \$16.5 billion or 1.3 percent of annual tax revenue
- Taxpayer debt increased **21 percent** between 9-2000 and 01-2004
- Nearly **40 percent** has been placed in "deferred" status

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IRS Collection Enforcement Trends





IRS Notice Procedure

- First notice CP-14
- CP-501
- CP-503
- CP-504
- First 4 notice spaced 5 weeks apart

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Collection Due Process

IRC § 6330

- Letter 1058
Timely appeal in 30 days
Form 12153
Set forth all defenses to levy
 - Offer in compromise
 - Amount of the liability
 - Spousal defenses
 - Penalties
 - Request for installment agreement

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Extensions of Time to Pay

- Up to 180 days
- Form 433-D is not to be used.
- The IRS will not file a lien.
- No Notices of Intent to Levy, Notice of Hearing (LT 11 or Letter 1058DO) or levies during granted extension periods, unless collection is in jeopardy or at risk.



Installment Agreements

- Less than \$25,000
- Granted upon request
- Up to 5 years to pay
- Income taxes
- Must stay current on future obligations
- Form 9465

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Installment Agreements

- Greater than \$25,000
- Must submit form 433A for individuals
- Must also submit form 433B for self employed
- Subject to allowable expense standards
- Must stay current

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Allowable Expenses

- Allowable Expenses
 - A. National Standards
 - B. Regional Standards
 - C. Local Standards
 - D. Necessary for production of income or health & welfare of the family



Conditional Expenses

- **Less than 5 year plans:**
Allowed during payment plan.
- **Greater than 5 year plans:**
Allowed for up to 12 months of the
payment plan.

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In-Business Trust Fund Express Installment Agreements

- **Pre-assessed liabilities plus the unpaid balance of assessments is \$1,500 or less.**
- **NOTE: ACS and Service Centers may grant Express installment agreements if pre-assessed liabilities plus the unpaid balance of assessments is \$10,000 or less.**
- **Fully paid in 24 months, or before the CSED, whichever is earlier.**

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TAS Report

- OICs accepted declined:
38,643 (or 34 percent) FY 2001
19,546 (or 16 percent) in FY 2004
- Rejected increased
13,976 (or 12 percent) in FY 2001
25, 654 (or 21 percent) in FY 2004.

TAS Report

⑩ (OICs) returned to taxpayers increased

43,936 (or 39 percent) in FY 2001

70,911 (or 57 percent) in FY 2004

- Percentage of OICs “disposed of” w/i six-month goal increased:

32 percent in FY 2001

55 percent in FY 2004,

- Average OIC processing time increased

310 days in FY 2001

380 days in FY 2003.

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Offers In Compromise

- Doubt as to collectibility
- Doubt as to collectibility, special circumstances
- Doubt as to the actual liability
- Promote effective tax administration

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User Fee

- Beginning 11-1-03 a user fee to process offers

- **\$150**

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Quick Sale Value

- QSV= 80% OF ASSET FMV LESS ENCUMBRANCES
- EXAMPLE:
 - \$200,000 HOUSE WITH A \$150,000 MORTGAGE.
 - $80 \times \$200,000 = \$160,000$ LESS $\$150,000 = \$10,000$
 - IRA DISCOUNTED BY THE TAX CONSEQUENCES: $\$1,000 \times .61 = \610

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Offers In Compromise

- **DOUBT AS TO COLLECTIBILITY**
- **CASH (PAID W/I 90 DAYS)**
 - QSV OF ASSETS PLUS 48 TIMES MONTHLY ABILITY TO PAY SHORT-TERM**
- **DEFERRED (PAID W/I 2 YEARS)**
 - QSV OF ASSETS PLUS 60 TIMES MONTHLY ABILITY TO PAY**
- **DEFERRED PAYMENT (PAID OVER REMAINING STATUTORY PERIOD)**
 - QSV OF ASSETS PLUS MONTHLY ABILITY TO PAY FOR REMAINING SOL**



Promote Effective Tax Administration

- **Collection of the full liability will create financial hardship**
- **Regardless of financial circumstances exceptional circumstances exist and collection of the full tax would be detrimental to voluntary compliance**
- **Compromise will not undermine compliance by taxpayers with tax laws**

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